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FACSIMILE TRANSMITTAL

TO: Allyson J. Deckman
ConnCase

FAX NUMBER: 860 541-6484

PHONE NUMBER: 860 548-1747

FROM: Bet Gailor *BG*

DATE: October 20, 2016

PAGES: 17, including cover page

RE: OSEP complaint

Please do not hesitate to call if this fax is incomplete or illegible.

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October 20, 2016

Allyson J. Deckman, ConnCASE Association Executive
701 Hebron Avenue, Third Floor
Glastonbury, CT 06033

VIA FACSIMILE : 860.541.6484

Dear Ms. Deckman:

Attached please find a copy of a complaint Connecticut Legal Services filed on October 1, 2016 against the Connecticut State Department of Education, Bureau of Special Education Services (CTSDE). I thought the complaint would be of interest to your organization.

CLS is the largest legal services organization in the state, providing legal representation to very low income families in housing, family, public benefits, disability, consumer law, and children's matters. For over forty years, CLS attorneys have represented parents and children in special education matters. In the attached complaint, CLS alleges that CTSDE does not comply with all of IDEA's requirements, despite providing OSEP with assurances in its annual Part B Plan that it does. CLS represents some of Connecticut's most vulnerable students who have complex disabilities. These children also are among the most costly to educate. Since school districts, on their own, often find themselves without the funding or resources to address the needs of these students, CLS filed a complaint alleging the CTSDE's longstanding violations of several critical IDEA provisions.

Specifically, IDEA provides that whenever IEP services fall within the scope of services offered by other state agencies—including the Department of Children and Families, the Department of Mental Health and Addiction Services, The Department of Rehabilitation Services, the Department of Developmental Services, and the Department of Social Services—school districts are entitled to have those agencies provide or pay for some or all of the costs of providing a free appropriate public education to its students. The IDEA requires the CTSDE to define the financial responsibilities of each agency, and a method for defining the conditions, terms and procedures under which a school district must be reimbursed by other agencies. Importantly, CTSDE also must provide school districts with a dispute resolution process to resolve any disagreements that arise. While certainly not all services that students with disabilities need belong on students' individualized education plans (IEPs), many such services do, and school



Allyson J. Deckman, ConnCASE Association Executive
October 20, 2016
Page 2

districts must be able to secure the resources and financial assistance they need in order to provide a free appropriate public education to the students in their districts.

CLS anticipates that resolution of this complaint will improve school districts' capacity to educate all students in their districts, particularly those eligible for special education and related services. Development of mandated interagency agreements and a dispute resolution process will increase collaboration and coordination between state agencies and school districts, result in more efficient and effective delivery of services to children, and, most importantly, lead to improved student outcomes. The implications for budgetary improvement for boards of education are significant.

Ultimately, a successful resolution of the complaint will hinge on our ability to work collaboratively to provide a solution that is acceptable to all parties involved and will serve the best interests of students with disabilities. I would welcome the opportunity to discuss these issues with ConnCase members and Attorney Linda Yoder, or any other board attorneys who might be interested in participating. Please feel free to contact me via e-mail at bgailor@connlegalservices.org, or by phone at 860 786-6371. Thank you for your time and interest. I look forward to hearing from you.

Very truly yours,



Bet Gailor
Staff Attorney

C: Attorney Linda Yoder, Shipman & Goodwin, via electronic mail
Chair, Education Law Section, Conn. Bar Association

Attachment: OSEP complaint dated October 1, 2016

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October 1, 2016

Ms. Ruth Ryder, Acting Director
Office of Special Education Programs
Office of Special Education and Rehabilitative Services
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, DC 20202-7100

Dear Director Ryder:

With this letter, Connecticut Legal Services, Inc. (CLS) files a complaint against the Connecticut State Department of Education, Bureau of Special Education Services (Bureau)¹. This complaint is necessary because Connecticut has neither sufficient interagency agreements nor procedures for resolving interagency disputes between local educational agencies (LEAs) and other state agencies as required by the Individuals With Disabilities Education Act (IDEA), 20 U.S.C. § 1412(a)(12)(A)-(C); 34 C.F.R. § 300.154. As a result of this failure, the Bureau delays and/or denies Connecticut students' rights to a free appropriate public education (FAPE). In many cases, the Bureau's failure to implement an appropriate State Plan leads directly to students being unable to attend school or parents being forced to relinquish their custodial rights in exchange for residential placements that are necessary for their children to receive educational benefit.

IDEA requires the Bureau to assure that there is a method for defining the financial responsibility of each agency providing services which are also considered special education or related services. IDEA also requires the Bureau to assure there is a method for defining the conditions, terms and procedures under which an LEA must be reimbursed by other agencies, procedures for resolving interagency disputes, including procedures permitting LEAs to initiate proceedings under the agreement to secure reimbursement from other agencies, and policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services to students with disabilities. 20 U.S.C. § 1412(a)(12)(A)-(C); 34 C.F.R. § 300.154².

¹ CLS is a non profit law firm that represents low income students with disabilities across the state who are eligible for special education and related services pursuant to IDEA and its accompanying regulations.

² The services referenced in 34 CFR §300.154(b)(1) include, among other things, transition services as defined by 34 CFR 300.43, the related services specified in §300.34(a), including assistive technology services, psychological services, speech-language pathology services, occupational therapy, orientation



Ms. Ruth Ryder, Acting Director
Office of Special Education Programs
October 1, 2016
Page 2

These policies and procedures simply do not exist in Connecticut, even though the Bureau continues to provide OSEP with assurances that they do. (See Section II, Assurances Related to Policies and Procedures, Section 12, of the Bureau's 2016 Part B Application).

Connecticut's Lack of An Adequate State Plan

The Bureau's noncompliance with 20 U.S.C. § 1412(a)(12)(A)-(C) and 34 C.F.R. § 300.154 has resulted in both the delay and denial of FAPE to children throughout Connecticut because LEAs alone do not have the resources or funds to provide the special education and related services such students require. Many special education and related services fall within the scope of services offered by multiple state agencies, including the Department of Children and Families (DCF), the Department of Mental Health and Addiction Services (DMHAS), The Department of Rehabilitation Services (DORS), formerly Bureau of Rehabilitation Services, and the Department of Developmental Services (DDS). See 34 C.F.R. § 300.154(b)(1); 34 CFR § 300.43; 34 § 300.34(a). Even Connecticut's Juvenile Probation Division (Court Support Services Division or CSSD) offers assessment and "diversionary" services through contracts with community-based and other treatment providers. The financial responsibilities of these agencies, as well as the responsibilities of the Department of Social Services (DSS), the state agency that administers the Early Period Screening, Diagnosis and Treatment (EPSDT) provisions of federal Medicaid law, 42 U.S.C. § 12101 et seq., Conn. Gen. Stat. § 10-76d(a)(9), precede the financial responsibilities of the local educational agencies. 20 U.S.C. § 1412(a)(12)(i).

Without the mandated coordination of services and dispute resolution procedures, Individualized Education Plan (IEP) team meetings become frustrating exercises in finger pointing. Because LEAs do not have access to interagency agreements or a dispute resolution process to apportion the costs of IEP services pursuant to IDEA, frequently and systemically many districts refuse to include necessary services on IEPs, even when evaluations recommend such services, because they do not have either access to resources or the financial means to such provide services on their own. In these circumstances, districts often advise parents that it is their responsibility to access services through other agencies, such as DCF or DDS. When the parent accepts agency services, the services are provided in response to the protocols of the particular agency, and not in response to the students' individualized needs. 20 U.S.C. § 1412(a)(12)(A)-(C) and 34 C.F.R. § 300.154.

For example, a community mental health agency might offer some mentoring or in home therapeutic services to encourage a truant student to get to school. The services are frequently ineffective and uncoordinated. CLS represents many students who have missed not days, but years, of education as a direct result of the Bureau's noncompliance with the above-cited IDEA requirements. The

and mobility services, physical therapy, therapeutic recreation, social work services, counseling services, parent counseling and training, and medical services for diagnostic or evaluation purposes.

Ms. Ruth Ryder, Acting Director
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October 1, 2016
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complexity of these children's needs renders them unable to access or benefit from special education and related services in the absence of interagency agreements and procedures for allocating the responsibilities and financial obligations of other state agencies.

Impact of the Inadequate State Plan on Disabled Students Needing Residential Education Placements

While the Bureau's failure to have interagency agreements and a dispute resolution process adversely affects all students with disabilities eligible for special education, the impact is greatest on children and youth with serious emotional disturbances, autism, or other health impairments who require residential placements in order to obtain FAPE. Unless a student resides in a DCF residential facility, there is no interagency agreement between DCF and the Bureau to coordinate services or to determine the financial responsibilities of the DCF and the LEA. In fact, under existing state law, DCF prohibits the funding of any IEP service. *See* Regs. Conn. State Agencies §17a-11-9. In addition, it has been the policy and practice of the DCF over the past several years to eliminate almost all in-state residential programs and to prohibit placements of children in out of state residential facilities unless the DCF Commissioner personally decides to approve such a placement. This DCF policy has rendered both LEAs and the Bureau unable to comply with the continuum of alternative placement requirements of 34 C.F.R. § 300.115. A particularly egregious consequence of the Bureau's violation of its IDEA obligations is that the parents of children with disabilities who require residential placements to obtain FAPE are forced to defend against neglect charges brought by the DCF. These parents frequently must relinquish their custodial rights in exchange for the mental health treatment their children need to access FAPE. *See* Conn. Gen. Stat. §46b-120(8) and Conn. Gen. Stat. §46b-129.

Another consequence of the Bureau's inadequate state Plan has been that during the past year the DDS notified some parents that it would cease funding the residential services it had been providing for their children with severe disabilities. (Attachment A). In those cases, DDS notified the parents that it was their responsibility to pursue continued residential placements at IEP meetings and to exercise their IDEA due process rights if the LEAs didn't agree to fully fund the residential placements. Thus, because there has been, and continues to be, no mechanism for resolving the financial responsibilities of DDS and LEAs, parents are being forced to incur the costs of expert witnesses and legal fees in order to access FAPE. Not only are most families unable to afford such costs, but a Connecticut due process hearing officer lacks authority to resolve financial disputes between agencies and the Bureau. *M. K. ex rel. Mrs. K. v. Sergi*, 554 F. Supp.2d 175, 186 (D. Conn. 2008); *Fetto v. Sergi*, 181 F. Supp.2d 53, 80 (D. Conn. 2001).

In the fall of the 2015-2016 school year, Connecticut juvenile probation placed an IDEA eligible sixteen year old truant student with a trauma history and multiple disciplinary removals in a four month long residential program pursuant to a contractual agreement between CSSD and the provider

Ms. Ruth Ryder, Acting Director
Office of Special Education Programs
October 1, 2016
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of a short term therapeutic placement. The student experienced significant problems within the school setting at that residential program, even requiring one-on-one instruction. The student was discharged early and unsuccessfully after staff concluded that the student required a higher level of care than that particular residential program could provide. At discharge, a clinician noted that staff wasn't aware of a higher level of care available in Connecticut, and, therefore, the student would be discharged to home and re-enrolled in his public high school. Not surprisingly, since that time, the student has not made any progress whatsoever on his IEP goals and objectives.

As DCF, DDS, and DMHAS rely increasingly on community-based models of service delivery to children and adolescents with psychiatric disabilities, the children often attend the public schools in the districts where they reside. Unfortunately, those school districts are ill-equipped to address the intensive, complex needs of those students. Necessary wraparound services to support these students in their communities are not available and are not included on IEPs, even when such services are essential for the students to achieve educational benefit. Additionally, DSS, in its administration of EPSDT services, routinely fails to fund medically necessary residential treatment for children as determined by IEP teams and/or mental health professionals. Many of the students on whose behalf CLS files this complaint are Medicaid eligible and involved with one or more of the non-educational agencies listed above.

Moreover, a majority of CLS student clients are involved with the juvenile justice system on account of truant behaviors and/or disciplinary offenses, many of which have led to school-based arrests. These students have complex disabilities including autism spectrum disorders, post traumatic stress disorder, reactive attachment disorder, mood disorder, bipolar disorder, anxiety, dysthymia and depression, emerging borderline personality disorder, and psychosis. These students require a diverse and comprehensive array of related services and special education services in order to receive FAPE. As such, they epitomize the students whom Congress sought to protect when it enacted 20 U.S.C. § 1412(c)(12). The Bureau's failure to have an adequate State Plan, together with the state's failure to offer a continuum of alternative placements, including residential placements, as stated above, disproportionately and negatively impacts these students.

Bureau's Failure To Correct Its Inadequate State Plan

CLS has brought these issues to the Bureau's attention on several occasions. In April 2013, CLS provided public comment to the Bureau with respect to the Part B Plan submission for Fiscal Year 2013. The Bureau determined that the application needed no modification. (See e-mail correspondence from Cunnane to Gailor, Attachment B). Subsequently, on February 3, 2015, CLS submitted a letter to the Bureau pursuant to the Freedom of Information Act to obtain copies of the

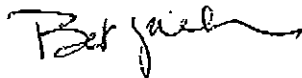
Ms. Ruth Ryder, Acting Director
Office of Special Education Programs
October 1, 2016
Page 5

documentation on which the Bureau relied in giving assurances to OSEP regarding U.S.C. § 1412(12)(A) and 34 C.F.R. § 300.154(a)(1). (Attachment C). The Bureau complied with this request on April 15, 2015. This documentation, available on request, confirmed that Connecticut lacks sufficient interagency agreements and statutes, and has no procedures whatsoever for resolving interagency disputes, including procedures permitting LEAs to initiate proceedings under the agreement to secure reimbursement from other agencies pursuant to 34 CFR §300.154(a)(3). CLS again provided public comment on April 8, 2016. (Attachment D). To date, CLS has received no response from the Bureau.

In support of the allegations herein, CLS stands ready to share with OSEP individual case studies of families and students who have been denied FAPE over the past few years as a result of the Bureau's non-compliance. CLS looks forward to your thorough investigation of the facts alleged in this complaint and will welcome the opportunity to work collaboratively with OSEP, the Bureau, and LEAs to begin the process of bringing our state into compliance. Thank you for your time and consideration. Please feel free to contact me at 860 786-6371, or at bgailor@connlegalservices.org to discuss this complaint in more detail.

Very truly yours,

Connecticut Legal Services



Bet Gailor
Staff Attorney

Attachments A - D

C: Dr. Isabelina Rodriguez, Bureau Chief
Connecticut State Department of Education

Dr. Dianna R. Wentzell, Commissioner, CT State Department of Education

ATTACHMENT A



Dannel P. Malloy
Governor

State of Connecticut
Department of Developmental Services

DDS

Morna A. Murray, J.D.
Commissioner

Jordan A. Scheff
Deputy Commissioner

November 24, 2015

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Re: [REDACTED]

Dear [REDACTED]

The request for the Department of Developmental Services to continue to fund a residential placement for [REDACTED] has been reviewed. Based on the review, it has been determined that the placement is due to the necessity of a residential placement for educational purposes. Your local Board of Education is therefore responsible for funding the placement. Therefore, the Department of Developmental Services will cease funding the residential placement effective December 31, 2015.

Each Board of Education shall make educational placements in accordance with the requirements set forth in the individualized education program of each child requiring special education and related services, *Regulations of the Connecticut State Agencies* §10-76d-16. According to the Individuals with Disabilities Education Act (IDEA), if placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child. 20 U.S.C. §1412(a)(1), §1412 (a)(10)(B), 34 CFR §300.104.

I am enclosing a Guide which is prepared by the Connecticut State Department of Education in order to assist you in the process of obtaining payment for the residential placement by your local Board of Education. The Guide includes the required forms as well as a suggested list of resources you may wish to contact for assistance. You should request, in writing, that the [REDACTED] Board of Education convene an immediate Planning and Placement Team meeting to begin the process. Please consult the Guide for further instruction.

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ATTACHMENT A

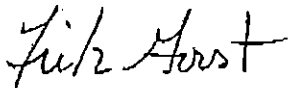
[REDACTED]
November 24, 2015

Page two

Additionally, I am attaching a suggested list of resources you may wish to contact for assistance.

If [REDACTED] resides at home, then the Department of Developmental Services may be able to provide in home supportive services based on available resources. The Department of Developmental Services is not able to continue to provide payment for residential placement through its Behavioral Services Program after December 31, 2015. I regret that we are unable to assist in this situation.

Sincerely,



Fritz Gorst
Regional Director

Enclosure

cc: Jordan Scheff, Deputy Commissioner
Attorney MJ McCarthy, Director Legal and Government Affairs
Donna Josephson, Assistant Regional Director

[REDACTED]
[REDACTED]
[REDACTED]

ATTACHMENT A



Dannel P. Malloy
Governor

State of Connecticut
Department of Developmental Services

DDS

Morna A. Murray, J.D.
Commissioner

Jordan A. Scheff
Deputy Commissioner

December 8, 2015

RE: [REDACTED]

Dear [REDACTED]:

The Department has reviewed your comments and concerns regarding its decision to cease funding the residential placement of [REDACTED] effective December 31, 2015. Based upon that review, the Department will continue to fund the placement through March 1, 2016 with certain conditions. Specifically, you must demonstrate that you are actively pursuing your local Board of Education, and any other entity that may be responsible to fund the placement. In order to demonstrate this, you must immediately request, in writing, that the Board of Education convene an expedited Planning and Placement Team ("PPT") meeting for purposes of funding the residential placement for [REDACTED] and provide a copy of this request to the Department. You must also appear at the PPT and take all appropriate action to have the Board of Education fund the placement, including filing any appropriate legal action. Copies must be provided to the Department. You should also invite the Department to the PPT. Please advise your case manager when a date has been scheduled.

As was explained in the November 24, 2015, letter, the Individuals with Disabilities Education Act (IDEA) requires the Board of Education to fund the placement when it is necessary to receive educational benefit as in this case. The Department provides assistance when it is appropriate. However, since the Board of Education is required by IDEA to fund the placement, it would be inappropriate for the Department to continue to allocate its limited resources in this regard.

The Department previously forwarded to you information on how to pursue funding from the Board of Education and professional referrals to assist you. I hope you find this information helpful.

Sincerely,

MJ McCarthy
Director, Legal and Government Affairs

ATTACHMENT B

From: Cunnane, Brian [mailto:Brian.Cunnane@ct.gov]
Sent: Tuesday, April 09, 2013 9:21 AM
To: Bet Gailor
Subject: Receipt of your comments to CT's IDEA Part B Application for FFY 2013

Dear Attorney Gallor:

I have received your public comments regarding the submission of Connecticut's Part B Application for Federal Fiscal Year 2013. At the present time, current state statues delineate both the programmatic and fiscal responsibilities of the various Connecticut state agencies.

Your comments were considered and a determination was made that the application needed no modification.

Thank you.

Brian J. Cunnane, M.A., Ed.S.
IDEA Funds Manager
Unit Coordinator/Education Consultant
Connecticut State Department of Education
Bureau of Special Education
165 Capitol Avenue, Room 369
P. O. Box 2219
Hartford, CT 06145-2219
860.713.6919 (Office)
860.713.7051 (Fax)

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ATTACHMENT C

JOELEN J. GATES
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OFFICE

February 3, 2015

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Mr. Brian Cunnane
State Department Of Education
Bureau of Special Education
165 Capitol Avenue, 3rd Fl., Rm 369
Hartford, CT 06106

VIA ELECTRONIC MAIL

Re: Connecticut's Part B Application for Federal Funds 2014

Dear Mr. Cunnane:

Pursuant to the Freedom of Information Act, Conn. Gen. Stat. §1-210(a)(3), I am requesting information from the State Department of Education (CTSDE) regarding Connecticut's Part B Plan for the fiscal years 2013 and 2014, as follows:

1. Pursuant to Conn Gen. Stat. §1-210(e)(1), any correspondence between the CTSDE and the Office of Special Education Programs (OSEP) regarding assurances given to OSEP that Connecticut has policies and procedures pursuant to 20 USC §1412(a)(12)(A)-(C) and 34 CFR §300.154 which require the state to have interagency agreements or other mechanism for interagency coordination in effect to assure that agencies in the state other than the state educational agency provide, or pay for, some or all of the costs of a free appropriate public education.

2. Copies of any and all statutes, regulations, memoranda, or agreements that provide the basis for CTSDE's assurances that it complies with all provisions of 20 USC 1412(a)(12)(A)-(C) and 34 CFR 300.154, including CTSDE's assurances that:

(a) interagency agreements or other mechanism for interagency coordination are in effect between CTSDE and the DCF, DMHAS, DDS, and DSS (agencies that are otherwise obligated under federal or state law or policy to provide or pay for any services that are also considered special education or related services, as articulated at 20



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USC 1412(a)(12)(B)(i)), to assure that a free appropriate public education is provided to children with disabilities;

(b) CTSDE has identified and defined the financial responsibility of each agency listed in Paragraph (a) above for providing services described in 20 USC 1412(a)(12)(B)(i) pursuant to 20 USC 1412(a)(12)(A)(i) 34 CFR 300.154(a)(1); and

(c) CTSDE, pursuant to 20 USC 1412(a)(12)(A)(iii)-(C) and 34 CFR 300.154(a)(1)-(a)(4), has established procedures for resolving interagency disputes, including procedures under which local educational agencies may initiate proceedings under an agreement or other mechanism to secure reimbursement from other agencies that failed to provide or pay for such services, or otherwise implement the provisions of the agreement or mechanism.

Connecticut Legal Services, Inc., is a not for profit law firm serving indigent clients. Pursuant to Conn. Gen. Stat. §1-212(d)(1), please waive any fees associated with the production of these documents.

I look forward to receiving your reply within four business days, pursuant to the Freedom of Information Act. Conn. Gen. Stat. §1-206(a). If you have any questions regarding this request, please contact me at (860) 786-6371 or by email at bgailor@connlegalservices.org.

Thank you for your anticipated cooperation.

Very truly yours,

Bet Gailor
Staff Attorney
Children at Risk

**CONNECTICUT LEGAL SERVICES**

ATTACHMENT D

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Mr. Thomas Boudreau
Connecticut State Department of Education
Bureau of Special Education
P.O. Box 2219
Hartford, CT 06145-2219

Re: Annual State Application for Federal Fiscal Year 2016 under Part B of
the Individuals with Disabilities Education Improvement Act as amended in
2004

Dear Mr. Boudreau:

My name is Bet Gailor and I am an attorney in the Children at Risk Unit of Connecticut Legal Services, Inc. I have practiced in the field of special education law in Connecticut since 1987. During the past fourteen years at CLS, I have worked in school districts across eastern Connecticut. I serve on the executive boards of both the Education Law and the Child Welfare Sections of the Connecticut Bar Association.

My comments today relate to the Assurances Related to Policies and Procedures provided in Section II, Section 12, of the Bureau's 2016 Part B Application. Specifically, the Bureau provides assurances that:

"... an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 C.F.R. §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under 300.154(b)(3). Such agreement or mechanism shall meet the requirements found in 20 USC 1412(a)(12)(A)-(C); 34 CFR 300.154."

34 CFR 300.154(a)(1) requires Connecticut to have:

(1) a method for defining the financial responsibility of each agency providing services described in paragraph (b)(1) of this section to ensure FAPE to children with disabilities, 300.154(a)(1);



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(2) the conditions, terms and procedures under which an LEA must be reimbursed by other agencies, 300.154(a)(2);

(3) procedures for resolving interagency disputes, including procedures permitting LEAs to initiate proceedings under the agreement to secure reimbursement from other agencies, 300.154(a)(3); and

(4) policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in paragraph (b)(1) of this section.

My experience, and that of my colleagues practicing in special education law, as well as my review of documentation obtained from the Bureau in April 2014 in response to a FOIA request, leads me to conclude that CTSDE does not fulfill the mandates of 20 USC §1412(12)(A) and 34 CFR §300.154(a)(1). Connecticut has neither sufficient interagency agreements nor procedures for resolving interagency disputes. As a result, frequently the special education and related services provided to students, if provided at all, are untimely, scattered, uncoordinated, and ineffective, resulting in a denial of FAPE for students with disabilities spanning many years.

The services referenced in 34 CFR §300.154(b)(1) include, among other things, the related services specified in §300.34(a), namely, assistive technology services, psychological services, therapeutic recreation, social work services, counseling services, parent counseling and training, and medical services for diagnostic or evaluation purposes. In Connecticut, many of these "related services" fall within the scope of services offered by the Department of Children and Families (DCF), the Department of Mental Health and Addiction Services (DMHAS), The Bureau of Rehabilitation Services (BRS), and the Department of Developmental Services (DDS). Even Court Support Services Division of Juvenile Probation (CSSD) offers assessment and "diversionary" services through contracts with community-based and other treatment providers. Finally, since Medicaid, pursuant to both state and federal law, is always the first payer of any IEP service, the role of DSS in administering the Early Period Screening, Diagnosis and Treatment (EPSDT) provisions of federal Medicaid law is of critical importance in the coordination of services for students with disabilities, many of whom are insured through Husky.

CLS clients, particularly those referred to us from juvenile probation officers, epitomize the students with complex needs whom 20 USC §1412(c)(12) sought to protect: they have costly educational needs and often are involved with multiple state agencies which provide services that are also considered special education and related services. Our clients have diagnoses which include post traumatic stress disorder, reactive attachment disorder, mood disorder, bipolar disorder, anxiety, dysthymia and depression, emerging borderline personality disorder, and psychosis. Of course, our clients have other disabilities, too, but, for many, their

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extraordinary mental health problems render them unable to access, or benefit from, special education and related services. Many CLS students and families are already involved with DCF and/or DSS. Many of our older students, for whom transition planning is mandated, are eligible to receive services from BRS, DDS, and DHMAS. Some students live with their parents, some are homeless. Some live in DCF foster homes, therapeutic foster homes, safe homes, shelters, and group homes. Some live in DMHAS or DDS licensed group homes. As both DCF, DDS, and DMHAS rely increasingly on community-based models of service delivery to children and adolescents with psychiatric disabilities, the children often attend the public schools in the districts where they reside. Unfortunately, those school districts are ill-equipped to address the intensive, complex needs of those students. The costs of providing FAPE, including necessary assessments, put an impossible pressure on school districts.

When CLS attorneys, parents, school staff, DCF or other agency staff, and probation officers participate in the students' PPT meetings, often there is no dispute regarding what services would benefit a child and support provision of FAPE, but there are many disputes over which agency is responsible for obtaining them and funding them. For example, team members might agree that a truant or chronically absent student with an attachment disorder would benefit from some individual, group, or family counseling, all of which are related services. Agency staff will discuss the supports it provides to the child and/or parents. However, those services are not incorporated into the IEP since doing so would make the school district liable for the cost of the service. When the service is not included in the IEP, goals and objectives to support instruction are not developed or monitored by the LEA. Rather, services are time limited and provided pursuant to each outside agency's procedures, guidelines, or financial constraints. Therefore, the IEP lacks the integration and coordination of services necessary to provide the student with FAPE. Just recently, for example, CSSD placed one of my truant clients with a trauma history and multiple disciplinary removals in a four month long residential program funded by CSSD. The student experienced significant problems within the school setting at that program, even requiring one-on-one instruction. The student was discharged early and unsuccessfully after the program concluded that the student required a higher level of care than it could provide. The discharge notes indicated that since staff wasn't aware of a higher level of care available in Connecticut, the student would be discharged to home and re-enrolled in his public high school. Not surprisingly, the student has not been successful, and I am working the school district's attorney to reach a resolution. In the meantime, the student has lost another entire year of instruction.

Certainly, not all of the services offered by other agencies belong on an IEP. Nonetheless, many CLS clients do require such services in order to receive FAPE, and many of these services would be incorporated into IEPs if the requisite agreements/mechanisms, and a dispute resolution process, were available to school districts. Without the mandated

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coordination of services and dispute resolutions procedures, PPTs become frustrating exercises in finger pointing. In the worst of situations, when a student with disabilities requires out of home placement, parents face a loss of custodial rights in exchange for treatment, since, under existing state law, DCF will not fund any IEP services. *See Reg. CT. State Agencies §17a-11-9*. Furthermore, children who are not committed to DCF, or who are ineligible for DCF voluntary services, are not entitled to mental health treatment, *Conn. Gen. Stat. §17a-3*, even though EPSDT provides an entitlement to any medically necessary treatment, including services provided through an IEP. The economic costs to the state of students with disabilities who are not able to access public education are huge and well-documented. There is much work to be done to better coordinate and fund IDEA services for students with disabilities and their families.

Connecticut Legal Services would welcome the opportunity to work collaboratively with CTSDE and the Bureau of Special Education, and all other stakeholders, to develop a comprehensive and coordinated approach to bring Connecticut into compliance with the provisions of 20 USC 1412(a)(12)(A)-(C); 34 CFR 300.154.

Thank you for your time and consideration. Please feel free to contact me at 860 786-6371, or at bgailor@connlegalservices.org.

Very truly yours,

Bet Gailor
Staff Attorney
Connecticut Legal Services, Inc.